REMARKS

I. Introduction

In response to the Office Action dated March 24, 2004, claims 12, 25, and 37 have been amended. Claims 1-48 remain in the application. Re-examination and re-consideration of the application, as amended, is requested.

II. Allowable Claims

In paragraphs (3)-(5) of the Office Action, claims 1-11, 17-18, 24, 30-31, 36, and 42-43 were indicated as being allowable. Applicant appreciates the indication of allowable claims. Nonetheless, Applicant traverses the rejections of the remaining claims as set forth below.

III. Prior Art Rejections

In paragraph (8) of the Office Action, claims 21, 23, 35, 46, and 48 were rejected under 35 U.S.C. §102(e) as being anticipated by Wang, U.S. Patent No. 6,446,028 (Wang). In paragraphs (12)-(13) of the Office Action, claims 22, 34, and 47 were rejected under 35 U.S.C. §103(a) as being unpatentable over Wang in view of Dunn et al., U.S. Patent No. 6,560,648 (Dunn). In paragraph (19) of the Office Action, claims 12-13, 16, 19-20, 25-26, 29, 32-33, 37-38, 41, and 44-45 were rejected under 35 U.S.C. §103(a) as being unpatentable over Midorikawa et al., U.S. Patent No. 5,953,708 (Midorikawa) in view of Dunn. In paragraph (27) of the Office Action, claims 14-15, 27-28, and 39-40 were rejected under 35 U.S.C. §103(a) as being unpatentable over Midorikawa and Dunn in view of Knauerhase et al., U.S. Patent No. 6,215,774 (Knauerhase).

Applicant respectfully traverses these rejections.

Specifically, the independent claims were rejected as follows:

> As per claims 21 and 46, Wang taught the invention as claimed for determining a server segment response time by subtracting the network segment response time and the client segment compute time from a total response time (col. 2, lines 26-29).
>
> As per claims 23 and 48, Wang taught the invention as claimed for determining a think time segment response time based on the difference between a time of the arrival of the inbound result on the message queue and the activation of a second client event (col. 6, lines 54-57).
>
> As per claim 35, Wang taught the invention as claimed for determining a think time segment response time comprising:
> a client (col. 3, lines 20-25); and

> a total response time agent of the client configured to determine a difference between a time of the arrival of the inbound result on the message queue and the activation of a second client event at the client (col. 6, lines 54-57).
>
> As per claims 34, Wang taught the invention as claimed for determining a server segment response tiem by subtracting the network segment response time and the client segment compute time from a total response time (col. 2, lines 26-29).
>
> As per claims 12, 25, and 37, Midorikawa taught the invention as claimed for determining network segment response times comprising:
> obtaining a total trivial time for a packet between a time prior to sending a trivial request packet from the client to a server to a time after the response is received at the client from the server (col. 8, lines 57-65);
> obtaining the network segment trivial response time by dividing the total trivial request time by two (col. 13, lines 14-18).

Applicant traverses the above rejections.

Claims 21 and 46

Claims 21 and 46 provide the ability to determine a server segment response time. The server segment response time is determined by subtracting a network segment response time AND a client segment response compute time from a total response time.

In rejecting this claim, the Office Action relies on Wang col. 2, lines 26-29 which provides:

> The performance monitor machine calculates an approximate total client observed response time by adding the server processing time and the approximate network transit time.

Firstly, this text indicates that Wang calculates a total client observed response time and not a server segment response time as claimed. Secondly, the above calculation provides for an addition calculation and not a subtraction calculation as claimed. Thirdly, Wang's addition calculation adds a server processing time and an approximate network transit time, while claims 21 and 46 subtract a network response time and a client segment response compute time from a total response time.

Applicant notes that Wang's total client observed response time is the total response time that is observed by the client and is not a client response compute time as used in the present claims. The meaning of Wang's "total client observed time" is clearly illustrated in the cited text since Wang's total observed time comprises the addition of a server processing time and a network transit time. Such an addition illustrates the client observing the time taken from a known server processing time and the network time to get to/from the client. Such meaning is not even remotely similar to the terminology in the present claims. The present claim language specifically provides for

using a "client segment response compute time" in the calculation. In other words, it is not a processing time (for a server and network) "observed" by a client. Instead, it is the actual compute time taken by the client. Such a claimed client compute time is not even considered or used in Wang's calculation whatsoever.

In addition, it is apparent that the purpose and result of Wang is to calculate a total response time (i.e., that is observed by the client). Such a purpose and result is contrary to the present invention which takes a total response time and subtracts a network and client processing times to calculate a "server segment response time". In other words, while the purpose and result of Wang is to produce a total observed response time, the present invention provides for calculating a server segment response time. Such a purpose and result (of Wang) are entirely different, distinguishable from, and cannot anticipate (or render obvious), the purpose and result of the present claims.

Claims 23 and 48

Claims 23 and 48 provide for determining a think time by determining a difference between a time of an arrival of an inbound result on a message queue at a client and an activation of a second client even at the client.

In rejecting these claims, the Office Action relies on Wang col. 6, lines 54-57, which provides:

> The server system 530 processes the request and eventually generates a response. The time used by the server for processing the request is depicted as server processing time 513.

Applicant respectfully traverses this rejection. Firstly, while the claims provide for a "think" time "at a client", Wang provides for a server processing time. In this regard, Wang teaches a server processing time while the claims teach a client think time. There are clear differences between calculating a server time and a client time.

Secondly, the claims use the time of arrival of an inbound result on a message queue at a client. The rejection merely ignores this limitation. The rejection provides for "a time of the arrival of the inbound result on the message queue" without any reference to the client limitation.

Thirdly, the claims provide for a think time at a client. In other words, the claims are determining the time taken by a user (at the client) before activating another action/event at the client. Such meaning is illustrated by the language of the claims that provide for the difference

between the arrival of a result at a client and an "activation of a second client event at the client". Such a claimed calculation is clearly distinguishable from the time used by a server for processing a request.

In addition, the claim language specifically provides for a inbound result on a message queue at a client. Wang fails to teach such a message queue. Instead, the cited language of Wang merely describes a server receiving a request. Without even mentioning such a message queue, Wang cannot possibly teach the invention as claimed.

In view of the above, Applicant submits that Wang clearly fails to anticipate the claimed invention under 35 USC §102. In addition, Wang does not and cannot render the claimed invention obvious under 35 USC §103.

Claim 35

Claim 35 was rejected on the same grounds as claims 23 and 48. Accordingly, Applicant reasserts the arguments made with respect to claims 23 and 48 in responding to this rejection.

Claims 12, 25, and 37

Claims 12, 25, and 37 provide for determining a network segment response time. The amended claims provide for obtaining a total response time for transmitting a network packet of a particular size from a client to a server and back. A total trivial time for a trivial request packet is then obtained. The total trivial time is the time between the sending of the trivial packet (from a client to a server) to the time after a response is received (at the client from the server). A network segment trivial response time is then obtained by dividing the total trivial time by two. Thereafter, the actual network packet that was transmitted when determining the total response time is matched with a trivial request packet based on the size of actual network packet and a trivial request packet. A network segment response time is then derived from the total response time as the trivial response time corresponding to the matched trivial request packet.

Thus, the claims are deriving the network response time for an actual packet that has been transmitted based on the time taken for transmitting a similarly sized trivial request packet. All of the cited references fail to disclose this aspect of the claims. Dunn merely provides for measuring the time for a message packet of a relevant size (see col. 7, lines 49-58). The measured size can then

be used to test the network latency time and the potential time for transmitting a message packet of a particular size (see col. 7, lines 49-58). However, Dunn fails to teach obtaining a total response time. Dunn also fails to teach the derivation of a network response time for an actual network packet that was transmitted based on the trivial packet transmitted. In other words, Dunn does not actually use the ECHO message time as the actual network response time for transmitting an actual packet (that is similar in size) as claimed.

Similarly, Midorikawa also fails to derive a network time from a total response time of an actual packet transmitted based on a trivial time. Instead, Midorikawa simply indicates that a terminal or center computer expects to receive a transmission within ½ of a total transmission time after the transmission is sent from either the center or terminal computer (see col. 13, lines 14-18). However, such a teaching does not disclose or suggest, implicitly or explicitly, the deriving of a network time for a network packet of a particular size as the trivial response time for a trivial packet of a similar size (as claimed).

Knauerhase also fails to cure the lack of teaching from Dunn and Midorikawa. In this regard, Knauerhase also fails to teach deriving the network response time as claimed.

IV. Conclusion

In addition to the above, Applicant submits that the various elements of Applicant's claimed invention together provide operational advantages over Wang, Dunn, Midorikawa, and Knauerhase. In addition, Applicant's invention solves problems not recognized by Wang, Dunn, Midorikawa, and Knauerhase.

Thus, Applicant submits that independent claims 1, 11, 12, 21, 23-25, 34-37, 46, and 48 are allowable over Wang, Dunn, Midorikawa, and Knauerhase. Further, dependent claims 2-10, 13-20, 22, 26-33, 38-45, and 47 are submitted to be allowable over Wang, Dunn, Midorikawa, and Knauerhase in the same manner, because they are dependent on independent claims 1, 11, 12, 21, 23-25, 34-37, 46, and 48, respectively, and thus contain all the limitations of the independent claims. In addition, dependent claims 2-10, 13-20, 22, 26-33, 38-45, and 47 recite additional novel elements not shown by Wang, Dunn, Midorikawa, and Knauerhase.

In view of the above, it is submitted that this application is now in good order for allowance and such allowance is respectfully solicited. Should the Examiner believe minor matters still remain that can be resolved in a telephone interview, the Examiner is urged to call Applicant's undersigned attorney.

Respectfully submitted,

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